



Furnished Holiday Lettings – what does the future hold?

As promised in the Emergency Budget, the Government has now published its consultation paper on Furnished Holiday Lettings (FHL).

Background

The previous Government had announced that the FHL rules would be repealed from April 2010 for both UK and European Economic Area (EEA) properties with income and losses being taxed and relieved under the tax rules applying to ordinary property businesses rather than the special tax rules that previously applied. However, this measure was one of the casualties from the March 2010 Budget, with the Emergency Budget of June 2010 maintaining the current rules until April 2011 when, after consultation on the reform of the FHL rules, a new regime would be in place to apply from April 2011.

The consultation paper

The main changes to the current rules proposed by the Government are:

- FHL in both the UK and EEA to be eligible to qualify as FHL;
- The minimum period over which a qualifying property must be available for letting to the public in the relevant period to be increased from 140 days to 210 days a year;
- The minimum period over which a qualifying property is actually let to the public in the relevant period to be increased from 70 days to 105 days a year; and
- Losses made in a qualifying UK or EEA FHL business to only be set against income from the same FHL business

Merely extending the FHL rules to EEA properties, while ensuring the rules are compliant with European Union (EU) law, would have placed a burden on the finances of the UK Exchequer which was viewed as unacceptable given the current economic climate. Therefore, these proposed changes are a way of mitigating the drain on the



public purse while still complying with EU law. The consultation paper states that the proposed changes will cost the Exchequer some £10m per year compared to the £30m per year under the current rules.

Capital allowances changes

In addition to these main changes, the consultation paper also proposes changes to the way capital allowances will be given in a FHL business.

Currently, a FHL business is entitled to capital allowances on assets for use within the FHL business. While the existing rules should require disposal events to occur should the FHL business qualify one year but not the next, HM Revenue & Customs (HMRC) has, on a concessionary basis, allowed capital allowances to continue to be claimed where the breach of the rule is regarded as temporary. However, the ruling in the *Wilkinson* case means this concession can no longer be allowed going forward.

Therefore, one proposal is for the capital expenditure on the FHL business to be kept in a separate capital allowances pool to enable it to be maintained as a notional pool until the FHL once again satisfies the qualifying conditions. This notional pool would record unrelieved expenditure, additions and disposals receipts, though should there be an excess of disposal proceeds over the pool balance, a balancing charge would apply in that year. Otherwise, any unrelieved balance is brought into account the next year the property satisfies the qualifying conditions.

It is thought this approach would place less of a burden on businesses than a strict application of the rules, notwithstanding that the legislation needed could be complex.

Viewpoint

Overall it would appear it is the intention to ensure the FHL reliefs are targeted at those FHL businesses which operate on a mainly commercial basis and to make it more difficult for those people for whom the property is merely a second home to benefit from the tax advantages whilst, at the same time, mitigating the cost to the Exchequer.



Next steps

The consultation period runs from 27 July to 22 October 2010 and draft legislation is intended to be published by the end of 2010, together with a more detailed technical note setting out exactly how the changes will be implemented along with any transitional arrangements.

Responses to the consultation paper should be emailed to; holiday-lettings-consultation@hmtreasury.gsi.gov.uk and a copy of the consultation paper can be found at www.hm-treasury.gov.uk/consult_holiday_lettings.htm

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